

REMARKS UNDER 37 CFR § 1.116

Formal Matters

Claims 1-9 are pending after entry of the amendments set forth herein.

Claims 10-17 have been canceled, without prejudice to the possibility of filing one or more continuing applications directed to the subject matter recited therein.

Claims 1-9 were examined. Claims 1-9 were rejected.

Applicant respectfully requests reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

In the Official Action of September 18, 2008, claims 1-9 were rejected under 35 U.S.C. Section 112, first paragraph, as failing to comply with the enablement requirement. The Examiner asserted that the specification does not sufficiently describe structure for the automatic adjustment means such that one could make the device wherein such adjustment means ensures that a top surface of a cleansing material supported on said cleansing material support extends above a top surface of the second scrubbing means as a user's foot is slid over the cleansing material. The Examiner asserted that it is not clear how one would make the automatic adjustment means that would ensure that a top surface of the cleansing material extends above a top surface of the second scrubbing means as a user's foot is slide over the cleansing material, especially in light of the solid nature of the bar soap that will have diminishing dimensions as it is used up.

In response thereto, Applicant refers the Examiner to paragraphs [0028] – [0029] wherein it is described that the automatic adjustment mechanism, in at least one embodiment, ensures that the top surface of the cleansing material extends above the top surface formed by scrubbing means 16. It is respectfully submitted that by providing the cleanser support 20 to extend to a position nearly flush with the scrubbing means, that this, together with the biasing means 22, ensures that the top surface of the cleansing material, even in a worn or diminished state, extends above the surface of the scrubbing means. When a bar of soap is new, this would only mean that it would extend further above the scrubbing means than when the bar of soap is worn and thus thinner. However, in both cases, the upper

surface of the soap is maintained above the scrubbing means by the arrangement described.

Still further, during use, it would be readily apparent to one of ordinary skill in the art that the biasing means can be made to have a spring constant greater than the bending strength of the bristles of the scrubbing means. This would allow some movement of the cleansing material, but ensure that the top surface of the cleansing material stays above the scrubbing means. Since the length of the user's foot is greater than the width of the soap bar, the scrubbing means would be depressed as well, if the soap bar is depressed, with the biasing means maintaining the soap bar in contact with the user's foot above the level of the depressed scrubbing bristles.

Thus, to clarify the answer to the Examiner's inquiry, the biasing means ensures that the top of the cleaning material always extends above the top surface of the scrubbing means, because the biasing means extends the cleanser support to a level that ensures that the top of the cleansing material extends above the top surface of the scrubbing means even when the cleansing material is at its thinnest, while still be useable as a cleansing material.

As to the Examiner's comment regarding strong springs, Applicant notes that the biasing member need only have a spring constant greater than the bending strength of the bristles of the scrubbing means. Accordingly, the biasing means will still allow movement of the cleansing material, but will ensure that the top surface of the cleansing material stays above the top surface of the scrubbing means.

Claim 1 has been amended to correct a typographical error.

In view of the above amendment and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-9 under 35 U.S.C. Section 112, first paragraph, as failing to comply with the enablement requirement as being inappropriate.

Conclusion

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number RYAN-001.

Respectfully submitted,
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